

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Hotchkiss, et al.)	
Application No.:	10/710,866)	PETITION UNDER
File Date:	August 9, 2004)	37 CFR 1.78(a)(3)
Attorney Docket No.:	800760)	

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 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.78(a)(3)

This is petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 in nonprovisional Application No 10/710,866 for the benefit of priority to prior-filed nonprovisional Application No. 10/249,784, filed 7 May 2003.

Set out below is a Statement of Facts regarding nonprovisional Application No. 10/249,784 and nonprovisional Application No. 10/710,866 in support of this petition. Attachment A includes a Proposed Amendment to the specification of nonprovisional Application No 10/710,866 required by 37 CFR 1.78(a)(2)(i) and 35 U.S.C. § 120 that is in compliance with 37 CFR 1.121, 1.52 and 1.4(c). Included with this submittal is an Application Data Sheet for nonprovisional Application No 10/710,866 including a claim for priority in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5). Accompanying this petition is the fee set forth under 37 CFR 1.17(t).

Statement of Facts

- a. Application No. 10/710,866 was filed on August 9, 2004, and incorporated by reference Application No. 10/249,784, filed on May 7, 2003 (Note: See paragraph 8, last sentence of Application No. 10/710,866, as filed).
- b. Both applications are currently copending, have the common inventor Timothy T. Green, and were filed under 37 CFR § 1.53(b).

- c. A reference to the prior-filed copending Application No. 10/249,784, as required under 35 U.S.C. § 120, was unintentionally omitted from the first sentence of Application No. 10/710,866.
- e. Applicants submit that the entire delay between the date that the claim was due under 37 CFR 1.78(a)(2)(ii) and the date of this petition was unintentional.

Summary

Petitioner Applicants request grant of the subject petition. Should there remain any unresolved issues, please contact Attorney for Petitioners listed below.

Respectfully Submitted,

January 19, 2009
Date

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